



General Assembly

February Session, 2022

Raised Bill No. 469

LCO No. 3049



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT CONCERNING THE USE OF COMPETITIVE PROCUREMENT
FOR STATE CONTRACTS.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 4-212 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2022*):

3 As used in this section and sections [4-212] 4-213 to 4-219, inclusive:

4 (1) "Competitive negotiation" means a procedure for contracting for
5 services in which (A) proposals are solicited from qualified persons,
6 firms or corporations by a request for proposals or any other form of
7 competitive procurement, and (B) changes may be negotiated in
8 proposals and prices after being submitted.

9 (2) "Competitive procurement" means the purchase or acquisition of
10 services by a state agency through an open and fair process, where all
11 responsible entities have an equal opportunity to pursue, and
12 potentially be selected for, a contract to provide the state agency with
13 the desired services.

14 [(2)] (3) "Personal service contractor" means any person, firm or
 15 corporation not employed by the state, who is hired by a state agency
 16 for a fee to provide services to the agency. The term "personal service
 17 contractor" [shall] does not include (A) a person, firm or corporation
 18 providing "contractual services", as defined in section 4a-50, as
 19 amended by this act, to the state, (B) a "consultant", as defined in section
 20 4b-55, (C) a "consultant", as defined in section 13b-20b, (D) an agency of
 21 the federal government, of the state or of a political subdivision of the
 22 state, or (E) a person, firm or corporation providing consultant services
 23 for information and telecommunications systems authorized under
 24 subdivision (3) of subsection (b) of section 4d-2.

25 [(3)] (4) "Personal service agreement" means a written agreement
 26 defining the services or end product to be delivered by a personal
 27 service contractor to a state agency, excluding any agreement with a
 28 personal service contractor that the state accounting manual does not
 29 require to be submitted to the Comptroller.

30 [(4)] (5) "Secretary" means the Secretary of the Office of Policy and
 31 Management.

32 [(5)] (6) "State agency" means a department, board, council,
 33 commission, institution or other executive branch agency.

34 Sec. 2. Section 4-214 of the general statutes is repealed and the
 35 following is substituted in lieu thereof (*Effective October 1, 2022*):

36 Each personal service agreement executed (1) on or after July 1, 1994,
 37 until June 30, 2023, and having a cost of not more than twenty thousand
 38 dollars and a term of not more than one year, and (2) on or after July 1,
 39 2023, and having a cost of not more than fifty thousand dollars and a
 40 term of not more than one year, shall be based, when possible, on
 41 competitive negotiation or competitive quotations.

42 Sec. 3. Section 4-215 of the general statutes is repealed and the
 43 following is substituted in lieu thereof (*Effective October 1, 2022*):

44 (a) Each personal service agreement executed on or after July 1, 1994,
 45 until June 30, 2023, and having a cost of more than twenty thousand
 46 dollars but not more than fifty thousand dollars and a term of not more
 47 than one year, or executed on or after July 1, 2023, and having a cost of
 48 more than fifty thousand dollars and a term of not more than one year,
 49 shall be based on competitive negotiation or competitive quotations,
 50 unless the state agency purchasing the personal services determines that
 51 a sole source purchase is required and applies to the secretary for a
 52 waiver from such requirement and the secretary grants the waiver. Not
 53 later than March 1, 1994, the secretary shall adopt guidelines for
 54 determining the types of services that may qualify for such waivers. The
 55 qualifying services shall include, but not be limited to, (1) services for
 56 which the cost to the state of a competitive selection procedure would
 57 outweigh the benefits of such procedure, as documented by the state
 58 agency, (2) proprietary services, (3) services to be provided by a
 59 contractor mandated by the general statutes or a public or special act,
 60 and (4) emergency services, including services needed for the protection
 61 of life or health. The secretary shall post any approvals of requests for a
 62 waiver received under this section on the State Contracting Portal. Not
 63 later than January 15, 2020, and annually thereafter, the secretary shall
 64 submit a report, in accordance with the provisions of section 11-4a, to
 65 the joint standing committees of the General Assembly having
 66 cognizance of matters relating to appropriations and the budgets of state
 67 agencies and government administration and the State Contracting
 68 Standards Board listing any such waiver requests received during the
 69 prior year and the justification for the grant or denial of such request.

70 (b) [The secretary] Prior to submitting an application to the secretary
 71 for approval of a sole source purchase of audit services, the state agency
 72 shall [immediately] notify the Auditors of Public Accounts of any
 73 [application that the secretary receives for approval of a sole source
 74 purchase of audit services] such intended application and give the
 75 auditors the opportunity to review the application to advise the state
 76 agency and secretary as to whether such services are necessary and, if
 77 so, whether such services could be provided by said auditors.

78 Sec. 4. Subsection (a) of section 4-216 of the 2022 supplement to the
79 general statutes is repealed and the following is substituted in lieu
80 thereof (*Effective October 1, 2022*):

81 (a) No state agency may execute a personal service agreement having
82 a cost of more than fifty thousand dollars or a term of more than one
83 year, without the approval of the secretary. A state agency may apply
84 for an approval by submitting the following information to the
85 secretary: (1) A description of the services to be purchased and the need
86 for such services; (2) an estimate of the cost of the services and the term
87 of the agreement; (3) whether the services are to be on-going; (4)
88 whether the state agency has contracted out for such services during the
89 preceding two years and, if so, the name of the contractor, term of the
90 agreement with such contractor and the amount paid to the contractor;
91 (5) whether any other state agency has the resources to provide the
92 services; (6) whether the agency intends to purchase the services by
93 competitive negotiation and, if not, why; and (7) whether it is possible
94 to purchase the services on a cooperative basis with other state agencies.
95 The secretary shall approve or disapprove an application [within] not
96 later than fifteen business days after receiving it and any necessary
97 supporting information. [, provided if the secretary does not act within
98 such fifteen-day period the application shall be deemed to have been
99 approved. The secretary shall immediately notify the Auditors of Public
100 Accounts of any application which the secretary receives] Prior to
101 submitting an application for approval of a personal services agreement
102 for audit services to the secretary, the state agency shall notify the
103 Auditors of Public Accounts of such intended application and give said
104 auditors an opportunity to review the application during such fifteen-
105 day period and advise the state agency and secretary as to whether such
106 audit services are necessary and, if so, could be provided by said
107 auditors.

108 Sec. 5. Subsection (a) of section 4-217 of the general statutes is
109 repealed and the following is substituted in lieu thereof (*Effective October*
110 *1, 2022*):

111 (a) [Not later than March 1, 1994, the] The Secretary of the Office of
 112 Policy and Management shall establish standards for state agencies to
 113 follow in entering into personal service agreements. The standards shall
 114 include, but not be limited to, provisions for: (1) Evaluating the need to
 115 use a personal service agreement, (2) developing a request for proposals
 116 or any other form of competitive procurement, (3) advertising for
 117 personal service contractors, (4) evaluating submitted proposals, (5)
 118 selecting a personal service contractor, including compliance with
 119 section 4a-60g, (6) systematically monitoring and evaluating personal
 120 service contractor performance, (7) documenting the entire process for
 121 selecting and managing personal service contractors, and (8) carrying
 122 out any other aspect of such process.

123 Sec. 6. Subsection (a) of section 4-218 of the general statutes is
 124 repealed and the following is substituted in lieu thereof (*Effective October*
 125 *1, 2022*):

126 (a) Not later than October 1, 2009, and annually thereafter, the
 127 secretary shall submit a report to the General Assembly indicating (1)
 128 for each personal service agreement, pursuant to sections 4-214 to 4-216,
 129 inclusive, as amended by this act, and executed during the preceding
 130 fiscal year, (A) the name of the personal service contractor, (B) a
 131 description of the services provided, (C) the term and cost of the
 132 agreement, and (D) the method of selecting the personal service
 133 contractor; and (2) for each such agreement either executed or otherwise
 134 in effect during the preceding fiscal year, (A) the amount of all payments
 135 made during the preceding fiscal year to the personal service contractor,
 136 [and] (B) the amount of any federal or private funds allocated for such
 137 payments, and (C) the total amount of all such payments.

138 Sec. 7. Section 4a-50 of the general statutes is repealed and the
 139 following is substituted in lieu thereof (*Effective October 1, 2022*):

140 When used in this chapter, unless the context indicates a different
 141 meaning:

142 (1) "State agency" includes any officer, department, board, council,

143 commission, institution or other agency of the Executive Department of
144 the state government;

145 (2) "Supplies", "materials" and "equipment" mean any and all articles
146 of personal property furnished to or used by any state agency, including
147 all printing, binding, publication of laws, stationery, forms, and reports;

148 (3) "Contractual services" means any and all laundry and cleaning
149 service, pest control service, janitorial service, security service, the rental
150 and repair, or maintenance, of equipment, machinery and other state-
151 owned personal property, advertising [and photostating,
152 mimeographing,] and other service arrangements where the services are
153 provided by persons other than state employees;

154 (4) "Competitive bidding" means the submission of prices by persons,
155 firms or corporations competing for a contract to provide supplies,
156 materials, equipment or contractual services, under a procedure in
157 which the contracting authority does not negotiate prices;

158 (5) "Competitive negotiation" means a procedure for contracting for
159 supplies, materials, equipment or contractual services, in which (A)
160 proposals are solicited from qualified suppliers by a request for
161 proposals or any other form of competitive procurement, and (B)
162 changes may be negotiated in proposals and prices after being
163 submitted;

164 (6) "Competitive procurement" means the purchase or acquisition of
165 services by a state agency through an open and fair process, where all
166 responsible entities have an equal opportunity to pursue, and
167 potentially be selected for, a contract to provide the state agency with
168 the desired services;

169 [(6)] (7) "Bidder" means a person, firm or corporation submitting a
170 competitive bid in response to a solicitation or any other form of
171 competitive procurement; and

172 [(7)] (8) "Proposer" means a person, firm or corporation submitting a

173 proposal in response to a request for proposals or any other form of
174 competitive procurement.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2022</i>	4-212
Sec. 2	<i>October 1, 2022</i>	4-214
Sec. 3	<i>October 1, 2022</i>	4-215
Sec. 4	<i>October 1, 2022</i>	4-216(a)
Sec. 5	<i>October 1, 2022</i>	4-217(a)
Sec. 6	<i>October 1, 2022</i>	4-218(a)
Sec. 7	<i>October 1, 2022</i>	4a-50

Statement of Purpose:

To define competitive procurement and permit its use for the purchase or acquisition of services by a state agency.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]